

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2001-488

July 24, 2001

PUBLIC UTILITIES COMMISSION  
Re: Rulemaking to Amend  
Chapter 204, Basic-Service Calling Area

ORDER COMMENCING  
RULEMAKING

WELCH, Chairman; DIAMOND and NUGENT, Commissioners

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## **I. SUMMARY**

The Commission is instituting this rulemaking to amend Chapter 204 (65-407 CMR 204), Basic-Service Calling Area. This rule establishes the criteria and the procedures that the Commission, local exchange carriers and others who provide basic telephone service in Maine will follow to establish and change basic-service calling areas (BSCAs). The statutory authority for the proposed amendments is contained in 35-A M.R.S.A. § 7303-A, which becomes effective September 21, 2001. P.L. 2001, ch. 106. The statute requires the Commission to adopt implementing rules by October 31, 2001. The rule we propose here is intended to reflect the requirements of the new law. The Commission is still considering whether to propose more comprehensive changes to the basic service calling area rules.

## **II. BACKGROUND**

In response to a pattern of customer complaints concerning the limitations of existing basic-service calling areas, the Commission adopted Chapter 204, effective June 25, 1994. *See Docket No. 93-170, Order Adopting Rule and Statement of Factual and Policy Basis, Basic Service Calling Areas (Chapter 204)*(May 19, 1994). Chapter 204 requires all local exchange carriers (LECs) in Maine to analyze residential toll traffic data in each exchange every five years to determine if any exchanges meet the Rule's threshold requirements for expansion of local calling areas. Under the Rule, an exchange will automatically be added to another exchange's calling area if 50% of the exchange's residential customers make four or more calls to the target exchange during a test month. The Rule also contains waiver provisions. LECs may request waivers from the Rule's automatic BSCA expansion requirements. Customers may request waivers from the Rule's minimum calling requirements, resulting in the expansion of BSCAs that do not meet the rule's threshold requirements. Since its adoption, Chapter 204 has alleviated some calling area problems. Thirty-eight initiating exchanges received expanded calling areas as a result of the 1994 cycle; only four exchanges received expanded calling areas as a result of the 1999 cycle.

Concerned that current Chapter 204 did not sufficiently address the expanding calling area needs of local telephone customers, the Commission initiated an inquiry on

September 12, 2000. See *Docket No. 2000-752, Notice of Inquiry, Inquiry into Revisions to The Basic Service Calling Area Rule, Chapter 204* (September 12, 2000)(NOI). The NOI identified four categories of calling area problems not sufficiently remedied by the existing rule, including the problem of single exchange calling areas. Prior to the NOI, the Commission reported to the Joint Legislative Utilities and Energy Committee that 17 exchanges in Maine did not have flat-rated, local calling to any other exchange. See Resolves 1999, ch. 32, §1 (requiring Commission to report on single exchange, flat-rate, basic service calling areas and proposals for expanding these areas). The Commission reported that four exchanges, Liberty, Palermo, Washington and West Enfield, raised particular concern because these exchanges have split communities of interest and no optional calling plans (which would provide some relief) and would not likely meet Chapter 204's requirements for expanded BSCA. Since the time of the report, West Enfield's BSCA has been expanded, and Liberty, Palermo and Washington will receive expanded BSCA's on October 1, 2001. Of the remaining 13 single-exchange calling area communities, six have optional calling plans, four are islands and three are in remote areas.

During the most recent session, the Legislature enacted 35-A M.R.S.A. § 7303-A, which directs the Commission to provide an additional waiver mechanism specifically for customers in single exchange areas. The Commission is instructed by section 7303-A to open a proceeding to investigate expanding a BSCA if it receives a written petition of 50 or more customers of a LEC who receive local, flat-rate, basic service within no more than a single exchange area. The statute also requires the Commission to hold at least one public hearing and issue an order either expanding the BSCA, or explaining why the BSCA will not be expanded, within six months of the filing of the petition. The Commission may allow carriers affected by section 7303-A to recover reasonable costs, including lost revenues attributable to the expansion. Finally, the Commission must establish standards for expanding single exchange BSCAs under this waiver mechanism no later than 30 days after the statute becomes effective, by October 31, 2001.

To satisfy the immediate requirements of section 7303-A, we propose to amend Chapter 204 to include both the additional waiver provision for customers in single exchange areas and the standards for expanding single exchange BSCAs in response to customer requested waivers. While these changes to Chapter 204 may provide some relief for customers who pursue a waiver under the Rule, additional measures may be necessary to address the single exchange area problem and other significant calling area problems. We will therefore continue to examine more comprehensive solutions to basic-service calling area problems and anticipate additional amendments to Chapter 204 in the near future. Our Docket No. 2000-752, *Inquiry into Revisions to the Basic Service Calling Area Rule*, remains open and we are considering the comments received as well as possible changes to the Rule.

### III. PROPOSED AMENDMENTS

In order to comply with the requirements of 35-A M.R.S.A. § 7303-A, we propose amending Chapter 204 to include the definition of “Single Exchange Area,” a waiver mechanism for 50 or more customers in a single exchange area, and standards for evaluating customer requested waivers.

A. Section I(O): Definitions

We propose adding “Single Exchange Area” to the terms defined. “Single Exchange Area” will be defined as “a basic-service calling area that includes only a single exchange.” This definition will be added as Section I(O) and the term “Telephone Company” will be renumbered Section I(P).

B. Section VIII(B): Customer Waivers

We propose reorganizing and adding two new provisions to Section VIII(B). New Section VIII(B) will include three subsections, VIII(B)(1), “30% or 1,000 Customers in Any Exchange Area,” VIII(B)(2), “50 or More Customers in a Single Exchange Area,” and VIII(B)(3), “Standards.”

1. Section VIII(B)(1): 30% or 1,000 Customers in Any Exchange Area

We propose adding the heading “30% or 1,000 Customers in Any Exchange Area” to Section VIII(B)(1) in order to distinguish the “any area” waiver process from new section VIII(B)(2) which describes the waiver process for “50 or More Customers in a Single Exchange Area.” Within Section VIII(B)(1) two subsections are created to reflect (a) the requirements of the written waiver under this section and (b) the Commission’s obligations upon receipt of a waiver submitted pursuant to this section. The text of Section VIII(B)(1)(a) is edited to emphasize the distinction between this waiver process and the “single exchange area” waiver process. The last two sentences of Section VIII(B)(1) are modified to provide more general requirements for the content of a written waiver request to simplify the request process.

2. Section VIII(B)(2): 50 or More Customers in a Single Exchange Area

We propose adding new Section VIII(B)(2), “50 or More Customers in a Single Exchange Area,” to meet the requirements of 35-A M.R.S.A. § 7303-A. Section VIII(B)(2) is broken into two subsections, (a) and (b). Under Section VIII(B)(2)(a), 50 or more customers in a single exchange area may request a waiver of the threshold requirements for expansion of their BSCA. This section also details what a written waiver request must contain.

Section VIII(B)(2)(b) describes the Commission’s obligations upon receipt of a waiver submitted pursuant to Section VIII(B)(2). These obligations differ from the obligations contained in Section VIII(B)(1)(b) because 35-A M.R.S.A. § 7303-A requires the Commission to take particular actions within a specified time period in

response to a “single exchange area” waiver request. If the Commission receives a “single exchange area” waiver request, the Commission must open a proceeding and hold at least one hearing, while if the Commission receives an “any area” waiver request, the Commission has discretion whether or not to open a proceeding, solicit written comments and hold hearings. In response to a “single exchange area” waiver request, the Commission must issue an order that either expands the BSCA or explains why the BSCA will not be expanded. This order must be issued within six months of receiving the written waiver request.

3. Section VIII(B)(3): Standards

We propose adding new Section VIII(B)(3), “Standards,” to fulfill 35-A M.R.S.A. § 7303-A(2)’s requirement that the Commission establish standards for evaluating “single exchange area” waiver requests no later than October 31, 2001. The proposed standards reflect the factors the Commission has previously used to determine whether a “sufficient community of interest” exists between two communities and other factors relevant to waiver requests. Although, 35-A M.R.S.A. § 7303-A(2) requires that standards only be established for “single exchange area” waiver requests, the standards articulated apply to both types of customer requested waivers. The Commission therefore proposes applying new Section VIII(B)(3) to all customer requested waivers. Under Section VIII(B)(3), the Commission may consider, but is not limited to, eight factors to determine whether a “sufficient community of interest” exists. These factors include employment patterns, available medical services, and location of schools. Other factors the Commission may consider in evaluating a customer requested waiver include, cost, revenue and rate impact.

#### **IV. PROCEDURES FOR THIS RULEMAKING**

This rulemaking will be conducted according to the procedures set forth in 5 M.R.S.A § 8051-8064. No public hearing on the proposed amendments is scheduled, but one will be held if requested by any five (5) interested persons. To request a public hearing, interested persons must notify the Administrative Director, Public Utilities Commission, 242 State Street, State House Station #18, Augusta, Maine 04333-0018, 1-207-287-3831, on or before August 13, 2001.

Please notify the Public Utilities Commission if special accommodations are needed in order to make the hearing, if one is held, accessible to you by calling 1-207-287-1396 or TTY 1-800-437-1220. Requests for reasonable accommodations must be received 48 hours before the scheduled event.

Written comments on the proposed amendments to Chapter 204 may be filed with the Administrative Director no later than August 31, 2001. Please refer to the Docket Number of this proceeding, Docket No. 2001-488, when submitting comments.

In accordance with 5 M.R.S.A. § 8057-A(1), the fiscal impact of the amendments is expected to be minimal. It is not expected to impose an economic burden on small

businesses. The Commission invites all interested parties to comment on the fiscal impact and all other implications of the proposed repeals. The full text of Chapter 204, the proposed amendments, this order, and 35-A M.R.S.A. § 7303-A, may be viewed on the Maine Public Utilities Commission website, <http://www.state.me.us/mpuc>

Notice of this rulemaking will be provided to the following:

1. All incumbent local exchange carriers in the State of Maine;
2. Competitive local exchange carriers and competitive interexchange carriers that paid the Commission regulatory assessment in 2000;
3. Parties who submitted comments and interested persons in Docket No. 2000-752;
4. The Office of the Public Advocate, State House Station 112, Augusta, Maine, 04333;
5. All people who have filed with the Commission within the past year a written request for any Notice of Rulemaking;
6. The Secretary of State for publication in accordance with 5 M.R.S.A. § 8053(5); and
7. Executive Director of the Legislative Council, State House Station 115, Augusta, Maine 04333 (20 copies)

